

29. (new) The electric motor driven vehicle of claim 25 wherein the frame comprises a plurality of compartments each being formed by an exterior surface of the frame.

#### REMARKS

Claims 1-9 remain in this case. Claims 10-18 have been cancelled. Claims 19-29 have been added. In view of the foregoing amendments, and remarks that follow, Applicant respectfully requests favorable considerable and timely indication of allowance.

The Examiner has objected to the abstract of the disclosure as allegedly failing to comply with the requirements under MPEP 608.01. In response to this objection, Applicant has amended the abstract of the disclosure in a manner suggested by the Examiner. Accordingly, Applicant respectfully requests that this objection be withdrawn.

Claims 1-18 have been rejected under the judicially created doctrine of obviousness-type doubling patenting as being unpatentable over claims 1-14 of U.S. Patent No. 6,691,813. Although Applicant does not necessarily agree with the Examiner's rejection, to advance the prosecution of this case, a terminal disclaimer in compliance with 37 CFR 1.321 is being filed herewith to overcome the nonstatutory double patenting rejection. Accordingly, Applicant respectfully requests that this rejection be withdrawn.

Claims 1-4 and 10-13 have been rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Turner (US 6,296,072 B1). Claims 5 and 14 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Turner in view of Pullin (US 1,479,738) or Lee (US D383,100). Claims 9 and 18 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Turner in view of Camfield (US 5,505,493). These rejections are respectfully traversed.

Applicant discloses a novel and unobvious monocoque frame for an electric motor driven cycle. The monocoque frame has a lightweight construction which tends to increase performance of the electric motor driven cycle in terms of extended range. The lightweight construction of the frame is made possible, in part, by using the electric motor as a load bearing member of the frame.

Turner discloses a bicycle having a monocoque frame. A swing arm, pivotally connected to the frame, is attached to the rear wheel at its distal end. An electric motor at the bottom of the swing arm is used to provide mechanical power to the rear wheel of the bicycle.

The Examiner takes the position that Turner anticipates Applicant's invention because Turner's motor is a "load bearing member" insofar as it supports the pedals and the crank arms that attach the pedals to the motor. However, Applicant does not seek to protect the broad concept of an electric motor which functions as a load bearing member. Instead, Applicant seeks to limit protection to an electric motor driven vehicle with a monocoque frame having an electric motor which is a load bearing member of the frame. Turner does not teach or suggest this concept.

Referring now to the specific claims, Applicant submits that they recite subject matter which is neither disclosed nor suggested by the art of record. Independent claim 1, for example, recites an "electric motor being a load-bearing member of the [monocoque] frame." (emphasis added). Claims 2-10 are dependent from claim 1, and therefore, also require an electric motor which is a load bearing element of the frame. Since the electric motor in Turner is part of a swing arm that is pivots connected to the frame, it cannot provide a load-bearing member for the frame. Accordingly, Applicant respectfully requests that the pending rejection of claims 1-9 be withdrawn.

Claims 20-29 have been added to this application to further illustrate the load bearing nature of the electric motor. Claims 20-24 each require an "electric motor being coupled to the frame such that at least a portion of a load applied to the frame is distributed to the electric motor." Claims 25-29 each require a monocoque frame "having a structural support member comprising an electric motor." Turner does not teach or suggest an electric motor which provides a load bearing function to the frame, and therefore, claims 20-29 are also patentable over Turner.

In view of the foregoing amendments and remarks, Applicant respectfully requests timely indication of allowance. Should any issues remain which the Examiner believes could be resolved in a telephone interview, the Examiner is requested to telephone Applicant's undersigned attorney.

Respectfully submitted,

*Craig A. Gelfound*  
Craig A. Gelfound  
Registration No. 41,032

McDERMOTT WILL & EMERY LLP  
2049 Century Park East, 34th Floor  
Los Angeles, CA 90067  
(310) 277-4110  
Facsimile: (310) 277-4730  
**Date: September 29, 2004**